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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/660,067

09/11/2003

Bart De Laender

40987

6186

38505 7590 02/16/2007  
MICHAEL W. TAYLOR  
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EXAMINER

WILKENS, JANET MARIE

ART UNIT

PAPER NUMBER

3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/660,067

Applicant(s)

LAENDER ET AL.

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 64-73, 75 and 77-95 is/are pending in the application.
- 4a) Of the above claim(s) 89-95 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 64-73, 75 and 77-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/5/05 & 9/11/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Attachment A

***Request for Continued Examination***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 11, 2006 has been entered.

Please note that the amendment filed July 21, 2006 was not entered into the application (see advisory action of August 1, 2006); however, in order to advance prosecution, this amendment will now be entered so as to make the most recent changes to the claims in the amendment filed December 11, 2006 proper.

***Election/Restrictions***

Newly submitted claims 89-95 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Prosecution in the previous Office actions was directed only to article claims. Therefore, the addition of method claims into the case is improper/constitutes a distinct invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 89-95 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plural membered bottom member and the top member with the plate above the cross supports must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 67 and 82-89 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Namely, nowhere in the specification or drawings, as originally filed, is it stated or shown that the bottom support member can be made up of plural members or that the top member is constructed with the plate above the cross supports.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 66 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 66, it is unclear whether or not the lifting member is to be positively claimed in combination with the pallet. In claim 64, it is not positively claimed (appears in an intended use statement); however, in claim 66, the member is positively claimed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 64-66, 68, 75, 77 and 79 are rejected under 35 U.S.C. 102(b) as being anticipated by Ausavich et al (5,191,843). Aushavich teaches a pallet (Fig. 10) comprising: a top support member (3), bottom support members (2), and a plurality of solid oval support blocks (1) located in three groups. Each solid support block comprises a composite material comprising at least one cellular material and at least one thermal plastic material (wood and polypropylene or polyethylene; see column 2, lines 5-11 and column 4, line 59-64) and has exposed outer surfaces devoid of any openings (see outer perimeters in Fig. 10) and flat ends (upper and lower surfaces and longitudinal side surfaces; see Figs. 4 and 5 for example). Also, fasteners/nails (4) are provided. Please note that limitations found in intended use/"for" statements have been given no weight in the claims. (Note: the other shapes listed in the grouping in claim 79 being functionally equivalent to the oval shape.)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 67, 82-85 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausavich et al in view of Welleman (4,955,940). As stated above,

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Ausavich teaches the limitations of claim 64, including top and bottom support members with oval support blocks in between. Each solid support block comprises a composite material comprising at least one cellular material and at least one thermal plastic material (wood and polypropylene or polyethylene; see column 2, lines 5-11 and column 4, line 59-64) and has exposed outer surfaces devoid of any openings (see outer perimeters in Fig. 10) and flat ends (upper and lower surfaces and longitudinal side surfaces; see Figs. 4 and 5 for example). Also, fasteners/nails (4) are provided. For claims 67 and 82, Ausavich fails to teach three upper cross supports between the top plate and support members. Wellman teaches a pallet (Fig. 1; see attachment A) comprised of a top member (a) with top support members (b) and upper cross support members (c), three sets of support blocks (d) and bottom support members (e). It would have been obvious to add three support planks between the top member and blocks of Ausavich, such as is taught by Welleman, to provide more support to the top member of the pallet.

Claims 69-73, 75, 80, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausavich et al. As stated above, Ausavich teaches the limitations of claims 64 and 68, including top and bottom support members with support blocks in between. Each solid support block comprises a composite material comprising at least one cellular material and at least one thermal plastic material (wood and polypropylene or polyethylene; see column 2, lines 5-11 and column 4, line 59-64). For claims 69-73, 75, 80, and 81, Ausavich fails to teach specific materials, densities/particle diameters for the materials and/or concentrations of materials used in the blocks. It would have been

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an obvious design consideration to one of ordinary skill in the art at the time of the invention to modify the support blocks of Ausavich by using different materials, different combinations of materials having different densities, particle diameters, concentrations of material, etc, depending on the desired need of the person constructing the pallet, e.g. depending on block strength properties desired/required, the materials readily available, personal preferences, etc. It would also have been an obvious consideration to use different types of cellular material and plastics, including polyesters, epoxies and vinylesters or wood, linen flax shives, paper fiber, nut shells, bamboo, etc, for the same reasons stated above. (Note: the members in these groups of materials being functional equivalents.)

Claim 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ausavich et al in view of Breezer et al (5,351,628). As stated above, Ausavich teaches the limitations of claims 64 and 77, including top and bottom support members with support blocks in between. The support blocks have flat ends on the first and second sides (see Fig. 1). For claim 78, Ausavich fails to specifically teach that the ends of the third and fourth sides are also flat. Breezer teaches a pallet (Fig. 1) having support blocks (34,36) with more than six flat sides, including having first, second, third and fourth flat ends. First, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the ends of the support blocks of Ausavich by adding flat portions to its third and fourth sides, such as is taught by Breezer, for aesthetic reasons. Second, it would have been an obvious design consideration to make the blocks various

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shapes, including a shape with six or more flat sides, such as is taught by Breezer or known in the art, also for aesthetic reasons.

Claims 86 and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausavich et al in view of Welleman. As stated above, Ausavich in view of Welleman teaches the limitations of claim 82, including top and bottom support members with support blocks in between. Each solid support block comprises a composite material comprising at least one cellular material and at least one thermal plastic material (wood and polypropylene or polyethylene; see column 2, lines 5-11 and column 4, line 59-64). For claims 86 and 88, Ausavich in view of Welleman fails to teach specific materials, densities/particle diameters for the materials and/or concentrations of materials used in the blocks. It would have been an obvious design consideration to one of ordinary skill in the art at the time of the invention to modify the support blocks of Ausavich in view of Welleman, by using different materials, different combinations of materials having different densities, particle diameters, concentrations of material, etc, depending on the desired need of the person constructing the pallet, e.g. depending on block strength properties desired/required, the materials readily available, personal preferences, etc. It would also have been an obvious consideration to use different types of cellular material and plastics, including polyesters, epoxies and vinylesters or wood, linen flax shives, paper fiber, nut shells, bamboo, etc, for the same reasons stated above. (Note: the members in these groups of materials being functional equivalents.)

***Response to Arguments***

Applicant's arguments filed December 11, 2006 have been fully considered but they are not persuasive.

Addressing the art rejections over Ausavich: as stated above, limitations found in intended use/"for" statements are given no weight in the claims. Therefore, much of what is stated in claim 64 is not being considered as positively claimed. Furthermore, it is contended that the blocks of Ausavich do have exposed outer surface devoid of any openings, i.e. when the pallet is assembled, the vertical perimeter of the blocks is the only surface "exposed" and it does not contain openings.

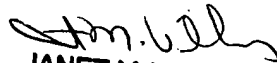
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkens  
February 15, 2007

  
JANET M. WILKENS  
PRIMARY EXAMINER  
AU 3637

**United States Patent** [19]  
**Welleman**

[11] **Patent Number:** **4,955,940**  
 [45] **Date of Patent:** **Sep. 11, 1990**

[54] **APPARATUS FOR CARRYING LOADS,  
 PARTICULARLY FOR OR AT A PALLET**

[76] **Inventor:** **Sven Welleman, Perstorp, S-540 30  
 Fagersanna (SE), Sweden**

[21] **Appl. No.:** **358,361**

[22] **PCT Filed:** **Nov. 30, 1987**

[86] **PCT No.:** **PCT/SE87/00567**

§ 371 Date: **May 18, 1989**

§ 102(e) Date: **May 18, 1989**

[87] **PCT Pub. No.:** **WO88/04263**

**PCT Pub. Date:** **Jun. 16, 1988**

[30] **Foreign Application Priority Data**

Dec. 3, 1986 [DE] Fed. Rep. of Germany ..... 8632080

Jun. 20, 1987 [DE] Fed. Rep. of Germany ..... 8707837

[51] **Int. Cl.<sup>5</sup>** ..... **B65D 19/00**

[52] **U.S. Cl.** ..... **108/56.1; 24/306;  
 248/916; 206/597**

[58] **Field of Search** ..... **108/56.1, 56.3, 51.1;  
 248/916 X; 24/16 PB, 17 AP, 306; 206/597 X,  
 600**

[56] **References Cited**

**U.S. PATENT DOCUMENTS**

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3,841,648	10/1974	Meyer	24/306
4,036,364	7/1977	Ambrose	206/597 X
4,128,253	12/1978	Powers	108/56.1 X
4,253,570	3/1981	O'Connor et al.	206/597 X
4,509,432	4/1985	Win	108/56.1 X

*Primary Examiner*—Peter A. Aschenbrenner

*Attorney, Agent, or Firm*—Dann, Dorfman, Herrell and Skillman

[57] **ABSTRACT**

Apparatus for carrying loads, particularly a pallet comprising spacers (2,3). Two or more pallets are interconnected by means of pairs (1,5) of spacers provided in the adjacent areas of the said pallets. Such spacer pairs, one body of which belongs to the one pallet and the other one to the other pallet, are interconnected by severable means such as a bridge and/or a shrink film and/or tapes (12) allowing a so construed multiple pallet to be produced, transported, used and stored as a unit. In operation, one pair of spacers is provided to be severed and another one held together by the said interconnectors, so that the latter forms a hinge for positioning any of the separate pallets forming a multiple pallet.

**9 Claims, 6 Drawing Sheets**

